

The Applicant respectfully disagrees with this interpretation of the word "of"; reference to almost any dictionary will show that its meaning is not nearly so restricted. For example, *Webster's Third New International Dictionary* published by Merriam-Webster has twenty variants of definitions for "of." Among these are "relating to: with reference to: as regards" and "used as a function word to indicate a quality or possession characterizing or distinguishing a subject." Based on these commonly accepted meanings, the specification supports "of the data" for at least one reason pointed out in the Office Action itself: "[t]he specification ... described the determination is based on ... how much the data depends on the connection's latency" (item 1, third paragraph). Clearly, if data depends on a connection's latency, it is data with a latency dependency. Further, plainly the latency dependency relates to or is a quality characterizing the data, and is therefore a latency dependency of the data.

Further, it is noted that the present specification states that "an application stored in memory 101c can determine whether the data to be sent is *non-latency-dependent*" (page 4, lines 22-23; emphasis added). It is straightforward to see that determining whether something is *not* latency-dependent must simultaneously embrace the possibility that the something *is* latency-dependent -- otherwise there would be no need for a determination. In any event, a determination based on latency dependency is being made.

In view of the above, the Applicant respectfully submits that there is clear and explicit support in the present specification for the claim limitation "determining based on a latency dependency of the data" as recited in the independent claims. Withdrawal of the rejection of claims 1-20 under 35 USC 112, first paragraph is therefore respectfully requested.

Claims 1-20 were rejected under 35 USC 103(a) as being unpatentable over Kumar et al. (US 6,434,367) in view of Griefer (US 5,615,213).

To support a rejection under §103, all claim limitations of a claimed invention must be taught or suggested by the prior art. See MPEP, § 2143.03 and *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Kumar and Griefer do not meet

this requirement, either independently or in combination. Neither Kumar nor Griefer teaches or suggests determining, based on a latency dependency of data, whether the data is appropriate for transmission over a digital control channel, as required by each of the independent claims. Moreover, since the dependent claims incorporate the features of the independent claims, the dependent claims are likewise allowable over Kumar and Griefer for at least the foregoing reasons.

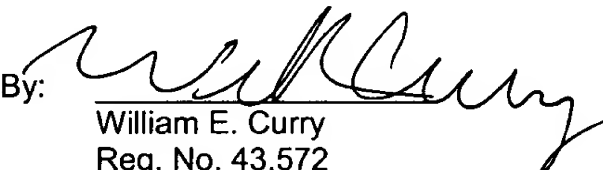
In view of the above, Kumar and Griefer cannot support the asserted rejection, and accordingly, withdrawal of the rejection of claims 1-20 as unpatentable over Kumar and Griefer is respectfully requested.

In conclusion, the applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees under 37 C.F.R. 1.16 or 1.17 related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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